

5. Housekeeping:

- a. Salary and employment benefits for a director of housekeeping, housekeepers and other cleaning personnel.
- b. Cost of cleaning supplies such as soaps, waxes, polishes, household paper products such as hand towels and toilet paper, and non-capitalized cleaning equipment.
- c. Contracted services for housekeeping.

6. Dietary:

- a. Salary and employment benefits for a director of dietary, nutritionists, dieticians, cooks, and kitchen personnel involved in the preparation and delivery of food.
- b. The cost of dietary supplies and utensils including dietary paper products, silverware, and noncapitalized kitchen and dining equipment.

7. Medical Records - Salary and employment benefits for medical records' personnel performing maintenance.

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Section 10 - Property Costs

Property related costs and other pass through costs include only those costs identified in this section.

1. Depreciation.
2. Interest expense on capital debt.
3. Property taxes including special assessments as provided for in Section 20 - Taxes.
4. Lease and rental costs.
5. Start up costs.
6. Reasonable legal expenses and related expenses:
 - a. Incurred or as a result of a successful challenge to a decision by a governmental agency, made on or after January 1, 1990, regarding a rate year beginning on or after January 1, 1990;
 - b. Related to legal services furnished on or after January 1, 1990; and
 - c. In the case of a partially successful challenge, not in excess of an amount determined by developing a ratio of total amounts claimed successfully to total amounts claimed in the partially successful challenge and applying that ratio to the total legal expenses paid.

Section 11 - Cost Allocations

1. Direct costing of allowable costs will be used whenever possible. For facilities which cannot direct cost, the following allocation methods must be used:
 - a. For nursing facilities that are combined with a hospital or have more than one license (including basic care), the following allocation methods must be used:
 - (1) Nursing salaries which cannot be reported based on actual costs are to be allocated using time studies. Time studies must be conducted at least semiannually for a two week period or quarterly for a one week period. The time study must represent a typical period of time when employees are performing normal work activities in each of their assigned areas of responsibilities. Allocation percentages based on the time studies are to be used starting with the next pay period following completion of the time study or averaged for the report year. The methodology used by the facility may not be changed without approval by the department. If time studies are not completed, nursing salaries will be allocated based on revenues for resident services.
 - (2) Salaries for a Director of Nursing or nursing supervisors which cannot be reported based on actual costs or time studies must be allocated based on nursing salaries or full-time equivalents (FTE's) of nursing staff.
 - (3) Salaries for cost center supervisors must be allocated based on cost center salaries or full-time equivalents (FTEs) of supervised staff.
 - (4) Staff development or inservice trainer salaries must be allocated to nursing and therapies based on the ratio of nursing and therapy salaries to total salaries, to non-long term care based on the ratio of non-long term care salaries to total salaries, and to administration based on the ratio of total salaries less nursing salaries, therapy salaries, and non-long term care salaries to total salaries.
 - (5) Other nursing costs must be allocated based on resident days.
 - (6) Therapy costs, other than therapy salaries and purchased services, must be allocated based on the ratio of therapy salaries and purchased services in the nursing facility to total therapy salaries and purchased services.
 - (7) Dietary and food costs must be allocated based on the number of meals served or in-house resident days.

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- (8) Laundry costs must be allocated on the basis of pounds of laundry or in-house resident days.
 - (9) Activity costs must be allocated based on in-house resident days.
 - (10) Social service costs must be allocated based on resident days.
 - (11) Housekeeping costs must be allocated based on weighted square footage as defined in subparagraph e of this section.
 - (12) Plant operation costs must be allocated based on weighted square footage as defined in subparagraph e of this section.
 - (13) Medical records costs must be allocated based on the number of admissions or discharges and deaths.
 - (14) Pharmacy costs for consultants must be allocated based on in-house resident days.
 - (15) Administration costs must be allocated on the basis of the percentage of total adjusted cost, excluding property, administration, chaplain, and utility costs, in each facility.
 - (16) Property costs must be allocated first to a cost center based on square footage. The property costs allocated to a given cost center will then be allocated using the methodologies set forth in this section for that particular cost center.
 - (17) Chaplain costs must be allocated based on the percentage of total adjusted costs, excluding property, administration, chaplain, and utility costs.
 - (18) Employment benefits must be allocated based on the ratio of salaries to total salaries.
- b. If any of the above allocation methods cannot be utilized by and facility, a waiver request may be submitted to the Medical Services Division. The request must include an adequate explanation as to why the referenced allocation method cannot be used by the facility. The facility must also provide a rationale for the proposed allocation method. Based on the information provided, the department will determine the allocation method that will be used to report costs.
- c. Malpractice, professional liability insurance, therapy salaries, and purchased therapy services must be direct costed.

- d. The costs of operating a pharmacy must be included as non-long term care costs.
 - e. For purposes of this section, "weighted square footage" means the allocation of the facility's total square footage, excluding common areas, identified first to a cost category and then allocated based on the allocation method described in this section for that cost category.
2. For nursing facilities that cannot directly identify salaries and employment benefits to a cost category, the following cost allocation methods must be used:
- a. Salaries must be allocated using time studies. Time studies must be conducted semiannually for a two week period or quarterly for a one week period. The time study must represent a typical period of time when employees are performing normal work activities in each of their assigned areas of responsibilities. Allocation percentages based on the time studies are to be used starting with the next pay period following completion of time study or averaged for the reporting year. The methodology used by the facility may not be changed without approval by the department. If time studies are not completed, salaries will be allocated entirely to the Indirect Care Costs if any of the employee's job duties are included in this cost category. Otherwise salaries will be Other Direct Care costs.
 - b. Staff development and inservice trainer salaries must be allocated to nursing and therapies based on the ratio of nursing and therapy salaries to total salaries and to administration based on the ratio of total salaries less nursing and therapy salaries to total salaries.
 - c. Employment benefits must be allocated based on the ratio of salaries in the cost category to total salaries.
3. Nursing facilities which operate or are associated with nonresident- related activities, i.e., apartment complexes, must allocate administration costs as follows:
- a. If total costs of all nonresident-related activities, exclusive of property, administration, chaplain, and utility costs, exceed five percent of total facility costs, exclusive of property, administration, chaplain, and utility costs, administration costs must be allocated on the basis of the percentage of total cost, excluding property, administration, chaplain, and utility costs.

- b. If total costs of all nonresident-related activities, exclusive of property, administration, chaplain, and utility costs, are less than five percent of total facility costs, exclusive of property, administration, chaplain, and utility costs, administration costs must be allocated to each activity based on the percent gross revenues for the activity is of total gross revenues, except the allocation may not be based on a percentage exceeding two percent for each activity.
- c. If the provider can document, to the satisfaction of the department, that none of the nursing facility resources or services are used in connection with the nonresident-related activities, no allocation need be made.
- d. The provisions of this subsection do not apply to the activities of hospital and basic care facilities associated with a nursing facility.

Section 12 - Nonallowable Costs

Costs not related to resident care are costs which are not appropriate or necessary and proper in developing and maintaining the operation of resident care facilities and activities. Such costs are nonallowable costs in computing the rates. Nonallowable costs include the following and any other costs determined to be nonallowable in accordance with other sections of 4.19-D Sub-section 1 and HCFA-15.

1. Political contributions;
2. Salaries or expenses of a lobbyist;
3. Advertising designed to encourage potential residents to select a particular facility;
4. Fines or penalties, including interest charges on the penalty, bank overdraft charges and late payment charges;
5. Legal and related expenses for challenges to decisions made by governmental agencies except for successful challenges as provided for in Section 10 - Property Costs;
6. Costs incurred for activities directly related to influencing employees with respect to unionization;
7. Cost of memberships in sports, health, fraternal or social clubs or organizations, such as Elks, YMCA, country clubs, Knights of Columbus;
8. Assessments made by or the portion of dues charged by associations or professional organizations for lobbying costs, contributions to political action committees or campaigns, or litigation, except for successful challenges to decisions made by governmental agencies (including all dues unless an allocation of dues to such costs is provided);
9. Community contributions, employer sponsorship of sports teams, and dues to civic and business organizations, i.e., Lions, Chamber of Commerce, Kiwanis, in excess of \$1,500 per cost reporting period;
10. Home office costs which would not otherwise be allowable if incurred directly by the facility;
11. Stockholder servicing costs incurred primarily for the benefit of stockholders or other investors which include, but are not limited to, annual meetings, annual reports and newsletters, accounting and legal fees for consolidating statements for SEC purposes, stock transfer agent fees, and stockbroker and investment analysis;

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12. Corporate costs not related to resident care including reorganization costs, costs associated with acquisition of capital stock, and costs relating to the issuance and sale of capital stock or other securities;
13. The full cost of items or services such as telephone, radio, and television, including cable hookups or satellite dishes, located in resident accommodations, excluding common areas, furnished solely for the personal comfort of the residents;
14. Fund raising costs, including salaries, advertising, promotional or publicity costs incurred for such a purpose;
15. The cost of any equipment, whether owned or leased, not exclusively used by the facility except to the extent that the facility demonstrates that any particular use of equipment was related to resident care;
16. Costs, including, by way of illustration and not by way of limitation, legal fees, accounting and administration costs, travel costs, and the costs of feasibility studies, attributed to the negotiation or settlement of the sale or purchase of any capital assets, whether by sale or merger, when the cost of the asset has been previously reported and included in the rate paid to any hospital or facility;
17. Costs incurred by the provider's subcontractors, or by the lessor of property which the provider leases, and which become an element in the subcontractor's or lessor's charge to the provider, if such costs would not have been allowable had they been incurred by a provider directly furnishing the subcontracted services, or owning the leased property, provided, however, that no facility shall have a particular item of cost disallowed under this subdivision if that cost arises out of a transaction which was completed before July 18, 1984;
18. The cost, in excess of charges, of providing meals and lodging to facility personnel living on premises;
19. Depreciation expense for facility assets not related to resident care;
20. Nonnursing facility operations and associated administration costs.
21. Direct costs or any amount claimed to Medicare for Medicare utilization review costs;
22. All costs for services paid directly by the department to an outside provider such as prescription drugs;

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23. Travel costs involving the use of vehicles not exclusively used by the facility except to the extent:
 - a. The facility supports vehicle travel costs with sufficient documentation to establish that the purpose of the travel is related to resident care;
 - b. Resident-care related travel costs do not exceed the standard mileage rate established by the Internal Revenue Service; and
 - c. The facility documents all costs associated with a vehicle not exclusively used by the facility;
24. Travel costs other than vehicle related costs unless supported, reasonable and related to resident care;
25. Additional compensation paid to employees who are members of the board of directors for service on the board;
26. Fees paid to members of a board of directors for meetings attended to the extent that the fees exceed the compensation paid, per day, to members of the legislative council, pursuant to North Dakota Century Code section 54-35-10;
27. Travel costs associated with board of directors meeting to the extent such meetings are held in a location where the organization has no facilities;
28. The costs of deferred compensation and pension plans that discriminate in favor of certain employees, excluding any portion which relates to costs that benefit all eligible employees;
29. Premiums for top management personnel life insurance policies, except that such premiums shall be allowed if the policy is included within a group policy provided for all employees, or if such a policy is required as a condition of mortgage or loan and the mortgagee or lending institution is listed as the sole beneficiary;
30. Personal expenses of owners and employees, such as vacations, boats, airplanes, personal travel or vehicles, and entertainment;
31. Costs not adequately documented through written documentation, date of purchase, vendor name, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or facilities;

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32. The following taxes:

- a. Federal income and excess profit taxes, including any interest or penalties paid thereon;
- b. State or local income and excess profit taxes;
- c. Taxes in connection with financing, refinancing, or refunding operation, such as taxes in the issuance of bonds, property transfers, issuance or transfer of stocks, etc. which are generally either amortized over the life of the securities or depreciated over the life of the asset, but not recognized as tax expense;
- d. Taxes such as real estate and sales tax for which exemptions are available to the provider;
- e. Taxes on property not used in the provision of covered services;
- f. Taxes, such as sales taxes, levied against the residents and collected and remitted by the provider;
- g. Self-employment (FICA) taxes applicable to individual proprietors, partners, members of a joint venture, etc.

33. The unvested portion of a facility's accrual for sick or annual leave;

34. The cost, including depreciation, of equipment or items purchased with funds received from a local or state agency, exclusive of any federal funds.

35. Hair care, other than routine hair care, furnished by the facility;

36. The cost of education unless:

- a. The education was provided by an accredited academic or technical educational facility;
- b. The expenses were for materials, books, or tuition;
- c. The employee was enrolled in a course of study intended to prepare the employee for a position at the facility, and is in that position; and

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